

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

MICHAEL LAUGHLIN,

Plaintiff,

v.

EXPERIAN INFORMATION
SOLUTIONS, INC., EQUIFAX
INFORMATION SERVICES, LLC, NCB
MANAGEMENT SERVICES, INC., and
JP MORGAN CHASE & Co dba JP
MORGAN CHASE BANK,

Defendants.

Case No. 8:22-cv-02080-FWS-JDE

**STIPULATED PROTECTIVE
ORDER**

Pursuant to the Parties' Stipulation (Dkt. 54) and for good cause shown, the Court finds and orders as follows.

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary or private information for which special protection from public disclosure and from use for any purpose other than pursuing this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public

1 disclosure and use extends only to the limited information or items that are entitled to
2 confidential treatment under the applicable legal principles.

3 2. GOOD CAUSE STATEMENT

4 This action is likely to involve trade secrets, customer and pricing lists and other
5 valuable research, development, commercial, financial, technical and/or proprietary
6 information for which special protection from public disclosure and from use for any
7 purpose other than prosecution of this action is warranted. Such confidential and
8 proprietary materials and information consist of, among other things, confidential business
9 or financial information, information regarding confidential business practices, or other
10 confidential research, development, or commercial information (including information
11 implicating privacy rights of third parties), information otherwise generally unavailable to
12 the public, or which may be privileged or otherwise protected from disclosure under state
13 or federal statutes, court rules, case decisions, or common law. Accordingly, to expedite
14 the flow of information, to facilitate the prompt resolution of disputes over confidentiality
15 of discovery materials, to adequately protect information the parties are entitled to keep
16 confidential, to ensure that the parties are permitted reasonable necessary uses of such
17 material in preparation for and in the conduct of trial, to address their handling at the end
18 of the litigation, and serve the ends of justice, a protective order for such information is
19 justified in this matter. It is the intent of the parties that information will not be designated
20 as confidential for tactical reasons and that nothing be so designated without a good faith
21 belief that it has been maintained in a confidential, non-public manner, and there is good
22 cause why it should not be part of the public record of this case.

23 3. ACKNOWLEDGMENT OF UNDER SEAL FILING
24 PROCEDURE

25 The parties further acknowledge, as set forth in Section 14.3, below, that this
26 Stipulated Protective Order does not entitle them to file confidential information under seal;
27 Local Civil Rule 79-5 sets forth the procedures that must be followed and the standards
28 that will be applied when a party seeks permission from the court to file material under

1 seal. There is a strong presumption that the public has a right of access to judicial
2 proceedings and records in civil cases. In connection with non-dispositive motions, good
3 cause must be shown to support a filing under seal. *See Kamakana v. City and County of*
4 *Honolulu*, 447 F.3d 1172, 1176 (9th Cir. 2006), *Phillips v. Gen. Motors Corp.*, 307 F.3d
5 1206, 1210-11 (9th Cir. 2002), *Makar-Welbon v. Sony Electronics, Inc.*, 187 F.R.D. 576, 577
6 (E.D. Wis. 1999) (even stipulated protective orders require good cause showing), and a
7 specific showing of good cause or compelling reasons with proper evidentiary support and
8 legal justification, must be made with respect to Protected Material that a party seeks to
9 file under seal. The parties' mere designation of Disclosure or Discovery Material as
10 CONFIDENTIAL does not—without the submission of competent evidence by declaration,
11 establishing that the material sought to be filed under seal qualifies as confidential,
12 privileged, or otherwise protectable—constitute good cause.

13 Further, if a party requests sealing related to a dispositive motion or trial, then
14 compelling reasons, not only good cause, for the sealing must be shown, and the relief
15 sought shall be narrowly tailored to serve the specific interest to be protected. *See Pintos*
16 *v. Pacific Creditors Ass'n.*, 605 F.3d 665, 677-79 (9th Cir. 2010). For each item or type of
17 information, document, or thing sought to be filed or introduced under seal, the party
18 seeking protection must articulate compelling reasons, supported by specific facts and legal
19 justification, for the requested sealing order. Again, competent evidence supporting the
20 application to file documents under seal must be provided by declaration.

21 Any document that is not confidential, privileged, or otherwise protectable in its
22 entirety will not be filed under seal if the confidential portions can be redacted. If
23 documents can be redacted, then a redacted version for public viewing, omitting only the
24 confidential, privileged, or otherwise protectable portions of the document, shall be filed.
25 Any application that seeks to file documents under seal in their entirety should include an
26 explanation of why redaction is not feasible.

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1 4. DEFINITIONS

2 4.1 Action: Laughlin v. Experian Information Solutions, et al., Case No.
3 8:22-cv-02080-CJC-JDE.

4 4.2 Challenging Party: a Party or Non-Party that challenges the
5 designation of information or items under this Order.

6 4.3 “CONFIDENTIAL” Information or Items: information (regardless of
7 how it is generated, stored or maintained) or tangible things that qualify for protection
8 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
9 Statement.

10 4.4 Counsel: Outside Counsel of Record and House Counsel (as well as
11 their support staff).

12 4.5 Designating Party: a Party or Non-Party that designates information or
13 items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

14 4.6 Disclosure or Discovery Material: all items or information, regardless
15 of the medium or manner in which it is generated, stored, or maintained (including, among
16 other things, testimony, transcripts, and tangible things), that are produced or generated in
17 disclosures or responses to discovery.

18 4.7 Expert: a person with specialized knowledge or experience in a matter
19 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
20 expert witness or as a consultant in this Action.

21 4.8 House Counsel: attorneys who are employees of a party to this Action.
22 House Counsel does not include Outside Counsel of Record or any other outside counsel.

23 4.9 Non-Party: any natural person, partnership, corporation, association or
24 other legal entity not named as a Party to this action.

25 4.10 Outside Counsel of Record: attorneys who are not employees of a party
26 to this Action but are retained to represent a party to this Action and have appeared in this
27 Action on behalf of that party or are affiliated with a law firm that has appeared on behalf
28 of that party, and includes support staff.

1 4.11 Party: any party to this Action, including all of its officers, directors,
2 employees, consultants, retained experts, and Outside Counsel of Record (and their support
3 staffs).

4 4.12 Producing Party: a Party or Non-Party that produces Disclosure or
5 Discovery Material in this Action.

6 4.13 Professional Vendors: persons or entities that provide litigation support
7 services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations,
8 and organizing, storing, or retrieving data in any form or medium) and their employees and
9 subcontractors.

10 4.14 Protected Material: any Disclosure or Discovery Material that is
11 designated as “CONFIDENTIAL.”

12 4.15 Receiving Party: a Party that receives Disclosure or Discovery
13 Material from a Producing Party.

14 5. SCOPE

15 The protections conferred by this Stipulation and Order cover not only
16 Protected Material (as defined above), but also (1) any information copied or extracted
17 from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
18 Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel
19 that might reveal Protected Material.

20 Any use of Protected Material at trial shall be governed by the orders of the
21 trial judge and other applicable authorities. This Order does not govern the use of Protected
22 Material at trial.

23 6. DURATION

24 Once a case proceeds to trial, information that was designated as
25 CONFIDENTIAL or maintained pursuant to this protective order used or introduced as an
26 exhibit at trial becomes public and will be presumptively available to all members of the
27 public, including the press, unless compelling reasons supported by specific factual
28 findings to proceed otherwise are made to the trial judge in advance of the trial. See

1 Kamakana, 447 F.3d at 1180-81 (distinguishing “good cause” showing for sealing
2 documents produced in discovery from “compelling reasons” standard when merits-related
3 documents are part of court record). Accordingly, the terms of this protective order do not
4 extend beyond the commencement of the trial.

5 7. DESIGNATING PROTECTED MATERIAL

6 7.1 Exercise of Restraint and Care in Designating Material for
7 Protection. Each Party or Non-Party that designates information or items for
8 protection under this Order must take care to limit any such designation to specific material
9 that qualifies under the appropriate standards. The Designating Party must designate for
10 protection only those parts of material, documents, items or oral or written communications
11 that qualify so that other portions of the material, documents, items or communications for
12 which protection is not warranted are not swept unjustifiably within the ambit of this Order.

13 Mass, indiscriminate or routinized designations are prohibited. Designations
14 that are shown to be clearly unjustified or that have been made for an improper purpose
15 (e.g., to unnecessarily encumber the case development process or to impose unnecessary
16 expenses and burdens on other parties) may expose the Designating Party to sanctions.

17 If it comes to a Designating Party’s attention that information or items that it
18 designated for protection do not qualify for protection, that Designating Party must
19 promptly notify all other Parties that it is withdrawing the inapplicable designation.

20 7.2 Manner and Timing of Designations. Except as otherwise provided in
21 this Order, or as otherwise stipulated or ordered, Disclosure of Discovery Material that
22 qualifies for protection under this Order must be clearly so designated before the material
23 is disclosed or produced.

24 Designation in conformity with this Order requires:

25 (a) for information in documentary form (e.g., paper or electronic
26 documents, but excluding transcripts of depositions or other pretrial or trial proceedings),
27 that the Producing Party affix at a minimum, the legend “CONFIDENTIAL” (hereinafter
28 “CONFIDENTIAL legend”), to each page that contains protected material. If only a

1 portion of the material on a page qualifies for protection, the Producing Party also must
2 clearly identify the protected portion(s) (e.g., by making appropriate markings in the
3 margins).

4 A Party or Non-Party that makes original documents available for inspection
5 need not designate them for protection until after the inspecting Party has indicated which
6 documents it would like copied and produced. During the inspection and before the
7 designation, all of the material made available for inspection shall be deemed
8 “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants
9 copied and produced, the Producing Party must determine which documents, or portions
10 thereof, qualify for protection under this Order. Then, before producing the specified
11 documents, the Producing Party must affix the “CONFIDENTIAL legend” to each page
12 that contains Protected Material. If only a portion of the material on a page qualifies for
13 protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by
14 making appropriate markings in the margins).

15 (b) for testimony given in depositions that the Designating Party
16 identifies the Disclosure or Discovery Material on the record, before the close of the
17 deposition all protected testimony.

18 (c) for information produced in some form other than documentary and
19 for any other tangible items, that the Producing Party affix in a prominent place on the
20 exterior of the container or containers in which the information is stored the legend
21 “CONFIDENTIAL.” If only a portion or portions of the information warrants protection,
22 the Producing Party, to the extent practicable, shall identify the protected portion(s).

23 7.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
24 failure to designate qualified information or items does not, standing alone, waive the
25 Designating Party’s right to secure protection under this Order for such material. Upon
26 timely correction of a designation, the Receiving Party must make reasonable efforts to
27 assure that the material is treated in accordance with the provisions of this Order.

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8. CHALLENGING CONFIDENTIALITY DESIGNATIONS

8.1. Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order.

8.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process under Local Rule 37-1 et seq.

8.3 Joint Stipulation. Any challenge submitted to the Court shall be via a joint stipulation pursuant to Local Rule 37-2.

8.4 The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

9. ACCESS TO AND USE OF PROTECTED MATERIAL

9.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this Action only for prosecuting, defending or attempting to settle this Action. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the Action has been terminated, a Receiving Party must comply with the provisions of section 15 below (FINAL DISPOSITION).

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

9.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose information or items designated CONFIDENTIAL only to:

1 (a) the Receiving Party's Outside Counsel of Record in this Action, as
2 well as employees of said Outside Counsel of Record to whom it is reasonably necessary
3 to disclose the information for this Action;

4 (b) the officers, directors, and employees (including House Counsel) of
5 the Receiving Party to whom disclosure is reasonably necessary for this Action;

6 (c) Experts (as defined in this Order) of the Receiving Party to whom
7 disclosure is reasonably necessary for this Action and who have signed the
8 "Acknowledgment and Agreement to Be Bound" to be negotiated ("Agreement");

9 (d) the court and its personnel;

10 (e) court reporters and their staff;

11 (f) professional jury or trial consultants, mock jurors, and Professional
12 Vendors to whom disclosure is reasonably necessary for this Action and who have signed
13 the Agreement;

14 (g) the author or recipient of a document containing the information or
15 a custodian or other person who otherwise possessed or knew the information;

16 (h) during their depositions, witnesses, and attorneys for witnesses, in
17 the Action to whom disclosure is reasonably necessary provided: (1) the deposing party
18 requests that the witness sign the Agreement; and (2) they will not be permitted to keep
19 any confidential information unless they sign the Agreement, unless otherwise agreed by
20 the Designating Party or ordered by the court. Pages of transcribed deposition testimony or
21 exhibits to depositions that reveal Protected Material may be separately bound by the court
22 reporter and may not be disclosed to anyone except as permitted under this Order; and

23 (i) any mediators or settlement officers and their supporting personnel,
24 mutually agreed upon by any of the parties engaged in settlement discussions.

25 10. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
26 IN OTHER LITIGATION

27 If a Party is served with a subpoena or a court order issued in other litigation
28 that compels disclosure of any information or items designated in this Action as

1 “CONFIDENTIAL,” that Party must:

2 (a) promptly notify in writing the Designating Party. Such notification
3 shall include a copy of the subpoena or court order;

4 (b) promptly notify in writing the party who caused the subpoena or
5 order to issue in the other litigation that some or all of the material covered by the subpoena
6 or order is subject to this Protective Order. Such notification shall include a copy of this
7 Stipulated Protective Order; and

8 (c) cooperate with respect to all reasonable procedures sought to be
9 pursued by the Designating Party whose Protected Material may be affected. If the
10 Designating Party timely seeks a protective order, the Party served with the subpoena or
11 court order shall not produce any information designated in this action as
12 “CONFIDENTIAL” before a determination by the court from which the subpoena or order
13 issued, unless the Party has obtained the Designating Party’s permission. The Designating
14 Party shall bear the burden and expense of seeking protection in that court of its
15 confidential material and nothing in these provisions should be construed as authorizing or
16 encouraging a Receiving Party in this Action to disobey a lawful directive from another
17 court.

18 11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO
19 BE PRODUCED IN THIS LITIGATION

20 (a) The terms of this Order are applicable to information produced by a
21 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
22 produced by Non-Parties in connection with this litigation is protected by the remedies and
23 relief provided by this Order. Nothing in these provisions should be construed as
24 prohibiting a Non-Party from seeking additional protections.

25 (b) In the event that a Party is required, by a valid discovery request, to
26 produce a Non-Party’s confidential information in its possession, and the Party is subject
27 to an agreement with the Non-Party not to produce the Non-Party’s confidential
28 information, then the Party shall:

1 (1) promptly notify in writing the Requesting Party and the Non-Party
2 that some or all of the information requested is subject to a confidentiality agreement with
3 a Non-Party;

4 (2) promptly provide the Non-Party with a copy of the Stipulated
5 Protective Order in this Action, the relevant discovery request(s), and a reasonably specific
6 description of the information requested; and

7 (3) make the information requested available for inspection by the Non-
8 Party, if requested.

9 (c) If the Non-Party fails to seek a protective order from this court
10 within 14 days of receiving the notice and accompanying information, the Receiving Party
11 may produce the Non-Party's confidential information responsive to the discovery request.
12 If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any
13 information in its possession or control that is subject to the confidentiality agreement with
14 the Non-Party before a determination by the court. Absent a court order to the contrary, the
15 Non-Party shall bear the burden and expense of seeking protection in this court of its
16 Protected Material.

17 12. UNAUTHORIZED DISCLOSURE OF PROTECTED
18 MATERIAL

19 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
20 Protected Material to any person or in any circumstance not authorized under this
21 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the
22 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all
23 unauthorized copies of the Protected Material, (c) inform the person or persons to whom
24 unauthorized disclosures were made of all the terms of this Order, and (d) request such
25 person or persons to execute the Agreement.

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1 13. INADVERTENT PRODUCTION OF PRIVILEGED OR
2 OTHERWISE PROTECTED MATERIAL

3 When a Producing Party gives notice to Receiving Parties that certain inadvertently
4 produced material is subject to a claim of privilege or other protection, the obligations of
5 the Receiving Parties are those set forth in Federal Rule of Civil\ Procedure 26(b)(5)(B).
6 This provision is not intended to modify whatever procedure may be established in an e-
7 discovery order that provides for production without prior privilege review. Pursuant to
8 Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the
9 effect of disclosure of a communication or information covered by the attorney-client
10 privilege or work product protection, the parties may incorporate their agreement in the
11 stipulated protective order submitted to the court.

12 14. MISCELLANEOUS

13 14.1 Right to Further Relief. Nothing in this Order abridges the right of any
14 person to seek its modification by the Court in the future.

15 14.2 Right to Assert Other Objections. By stipulating to the entry of this
16 Protective Order, no Party waives any right it otherwise would have to object to
17 disclosing or producing any information or item on any ground not addressed in this
18 Stipulated Protective Order. Similarly, no Party waives any right to object on any ground
19 to use in evidence of any of the material covered by this Protective Order.

20 14.3 Filing Protected Material. A Party that seeks to file under seal any
21 Protected Material must comply with Local Civil Rule 79-5. Protected Material may
22 only be filed under seal pursuant to a court order authorizing the sealing of the specific
23 Protected Material. If a Party's request to file Protected Material under seal is denied by
24 the court, then the Receiving Party may file the information in the public record unless
25 otherwise instructed by the court.

26 15. FINAL DISPOSITION

27 After the final disposition of this Action, as defined in paragraph 6, within 60
28 days of a written request by the Designating Party, each Receiving Party must return all


1 Protected Material to the Producing Party or destroy such material. As used in this
2 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
3 summaries, and any other format reproducing or capturing any of the Protected Material.
4 Whether the Protected Material is returned or destroyed, the Receiving Party must submit
5 a written certification to the Producing Party (and, if not the same person or entity, to the
6 Designating Party) by the 60-day deadline that (1) identifies (by category, where
7 appropriate) all the Protected Material that was returned or destroyed and (2) affirms that
8 the Receiving Party has not retained any copies, abstracts, compilations, summaries or any
9 other format reproducing or capturing any of the Protected Material. Notwithstanding this
10 provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers,
11 trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and
12 trial exhibits, expert reports, attorney work product, and consultant and expert work
13 product, even if such materials contain Protected Material. Any such archival copies that
14 contain or constitute Protected Material remain subject to this Protective Order as set forth
15 in Section 6 (DURATION).

16 16. VIOLATION

17 Any violation of this Order may be punished by appropriate measures
18 including, without limitation, contempt proceedings and/or monetary sanctions.

19 IT IS FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

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21 DATED: July 17, 2023

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23 
24 JOHN D. EARLY
25 United States Magistrate Judge
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